

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim 11 is requested to be cancelled.

Claims 9 and 18 are currently being amended.

Claims 21-27 are being added.

After amending the claims as set forth above, Claims 1-10 and 12-27 are now pending in this application. Support for newly added claims 23-27 may be found at paragraph 7 of the specification.

Double Patenting

In the Office Action, the Examiner provisionally rejected Claim 9 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claim of copending Application No. 09/877716. Because the rejection is provisional and since Claim 9 has not been indicated as otherwise allowable, Applicants note the rejection and will consider filing a terminal disclaimer in response to the rejection if the other application is indicated as being allowable.

Rejection of Claims 1-20 under 35 U.S.C. § 103(a)

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tao (US 6,284,007). The Office Action cited broad ranges taught by Tao and then stated that Example 4 of Tao taught each of the limitations of the claims except for 18:1 content and that the 18:1 content recited in the claims was obvious in light of the 18:1 content taught in Tao.

The broad ranges of Tao are unspecific and do not teach the limitations of Claims 1, 3, 9, and 18 (or new claim 21). Moreover, the specific compositions described in the Examples of Tao do not teach or suggest the elements of these claims. Further, nothing in Tao suggests modifying the examples of Tao in light of the broad ranges to teach or suggest the specific limitations of present independent claims.

The “preferred” ranges taught in Table 1 of Tao are generic to a large number of plant-based vegetable oils, or slightly hydrogenated and/or blended plant-based vegetable oils. For example, most vegetable oils that have been hydrogenated and/or fractionated to produce a triglyceride stock having an Iodine Value of 0 to about 75 would be covered by the preferred ranges disclosed in Table 1 of Tao. This represents a huge range of compositions with a wide variety of varying physical properties. Further, the broad ranges disclosed in Tao of 1-99% fatty acid and 1-99% triglyceride are very unspecific. When combined with the teaching that the candle need not include the free fatty acid (Col. 1, line 62) would cover an extremely broad range of compositions made from a triglyceride oil. In summary, it is respectfully submitted that these general teaching of Tao are extremely generic and do not teach one of ordinary skill in the art to make a candle wax as recited in the present independent claims.

The specific candle wax taught in Example 4 of Tao does not teach or suggest the waxes recited in the independent claims of the present application. Present Claim 1 recites “a candle wax which includes about 50 to 65 wt.% of a triacylglycerol component and about 35 to 50 wt.% of a fatty acid component.” The present independent claims each recite a candle wax which includes “about 35 to 50 wt.% of a fatty acid component.”

In contrast, Tao recites two specific examples which include free fatty acid components; one at Example 3 and one at Col. 4, lines 14-19. Example 3 of Tao describes a candle wax having 83% fatty acid/triglyceride and 17% paraffin wax, where the fatty acid/triglyceride component includes 94% triglyceride and 6% free fatty acid. In other words, the free fatty acid portion makes up about 5% of the total wax. Similarly, the candle wax disclosed at Col. 4, lines 14-19, Tao describes a candle wax with a lipid composition having 5% stearic acid and 95% triglycerides. Both of these specific candle waxes described in Tao have a free fatty acid content that is substantially lower than the range recited in the present independent claims (and correspondingly a triglyceride content that is well above the range recited in a number of the present independent claims).

Further, Tao does not render Claims 1, 3, 9, and 18 obvious, even in light of the broader ranges and examples recited in Tao. While Tao does recite some very broad, unspecific ranges, it is submitted that Tao teaches that superior candle quality is achieved with a very low (circa 5%) concentration of fatty acid which is consistent with the specific examples showing that the fatty acid content is 5% and is 6% of the free fatty acid/triglyceride mixture.

The broad ranges recited in Tao do not teach or suggest the specific amounts and compositions of the components of the candle waxes recited in the independent claims of the present application. Neither the broad ranges nor the specific examples disclosed in Tao teach or suggest at least one claimed element from each claim, Claims 1, 3, 9, and 18 are believed to overcome the rejection over Tao.

The remaining claims in the present application, depend from one of the independent claims discussed above. It is submitted that these dependent claims are allowable for at least the same reasons as the independent claim from which they depend.

Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

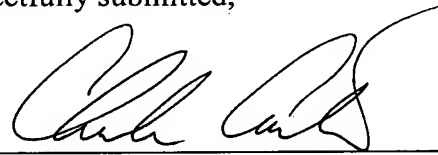
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date

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By



FOLEY & LARDNER
777 East Wisconsin Avenue, Suite 3800
Milwaukee, Wisconsin 53202-5306
Telephone: (414) 297-5842
Facsimile: (414) 297-4900

Charles G. Carter
Attorney for Applicant
Registration No. 35,093